IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.8827 of 2004

Pramod A. Tole & Ors. .....Petitioners

Versus

Naresh Leelaram Balwani & Ors. .....Respondents

Mr.C.P. Deogirikar, for the petitioners
Mr. R.A. Thorat with Mr. B.P. Shukla, for the Respondents

CORAM: F.I. REBELLO J.
DATE : 12th January, 2005

P.C.:

. The petitioners are tenants of a building in adjacent land. They have complained to the Municipal Corporation about illegal construction being put up by the Respondent No.1. Based on that complaint the Corporation seems to have issued a notice. The suit was filed by Respondent No.1 which is pending before the City Civil Court against the Respondent No.2.

2. It is in this suit that the petitioners herein applied to be added as parties. That has been rejected and consequently the present petition.

3. The plaintiff in a suit is always dominus litis. It is only in the event the presence of some other person is required without whom an effective decree cannot be passed will it be open to the Court under Order 1 Rule 10 of C.P.C. to permit addition of parties. In the instant case what the

Petitioners herein are contending is that the Respondent No.1 herein has not followed the provisions of the building bye-laws, Regulations and other laws in force and, therefore, they are entitled for relief against the respondents herein. That would be an independent cause of action as the present suit is against the notice of demolition issued by the respondent No..2. If the petitioners are entitled they may do so by an independent suit. Their presence is not required for deciding the issue which arises in this suit. At the highest in the present suit they may be witnesses. Considering that,

no case for interference. Petition rejected.

(F.I. REBELLO, J.)